

Internal Revenue Service
memorandum

FREV-101447-98

Br6:BrantGoldwyn

date: APR 2 1999
to: Director, Exempt Organizations Division
ATTN: John Chappell CP:E:EO:T:3
from: Chief, Branch 6 CC:EBEO:Br6
Office of the Associate Chief Counsel
(Employee Benefits and Exempt Organizations)

subject: [REDACTED]

This responds to your memorandum of January 20, 1998. [REDACTED]

[REDACTED] We believe that the organization does not comply with all the requirements of section 501(c)(26) and should not be recognized as exempt.

Section 501(c)(26)(B)(ii)(II) provides that the pool may cover individuals who because of an existing medical condition, "are able to acquire [medical] coverage only at a rate which is substantially in excess of the rate charged for such coverage through the membership organization." [REDACTED]

[REDACTED]

Coverage which can be extended to individuals who are able to acquire coverage at an equal rate does not meet the Code's requirement that the outside rate be "substantially" higher than the pool's rate. Although "substantially" is not defined, we believe this requires that the outside rate be higher and that the difference between the outside rate and the [REDACTED] rate be more than de minimis.

If you have any questions or wish to discuss this case, please contact Brant Goldwyn of this Branch at 622-6080.


HARRY BEKER

PMTA: 01453